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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,578	01/24/2002	Hakan Barneman	1381-0284P	3991
2292 7590 09/25/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER GREENHUT, CHARLES N	
			ART UNIT 3652	PAPER NUMBER
			NOTIFICATION DATE 09/25/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No.	Applicant(s)	
	10/053,578	BARNEMAN ET AL.	
	Examiner	Art Unit	
	Charles N. Greenhut	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-8 and 10-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8, 10-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

I. Claim Rejections - 35 USC § 112

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim(s) 5-6 is/are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. Claim 5 recites the phrase, "said one suspension element" in line 3. There is insufficient antecedent basis for this limitation

II. Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim(s) 1-3, 5-8, and 10-13 is/are rejected under 35 U.S.C. 102(b) as being anticipated by KLEIN (US 5,230,404 A).

1.1. With respect to claims 1, 10-13, KLEIN discloses guide rail (25), suspension elements (12), (at 17), (at 18) fixed to a ceiling (11), suspension means (13) connectable to a hoisting device (14) capable of moving an elevator car (4), having a roof (5) usable for installation of shaft equipment, an overspeed governor (17) mounted to one suspension element (Fig. 3), suspension means (13) mounted to

another suspension element (12), and a further suspension element (18) forms an auxiliary suspension means.

1.2. With respect to claims 2-3, 5-6, KLEIN additionally discloses a manually operated mounting tool bar (16) for setting, and the suspension means (13) on the suspension element (12) from a top floor, means for mounting (11) the suspension means (13), manually operated mounting tool bar (16) for setting the governor (17) on a suspension element (33) from the top floor (11).

1.3. With respect to claim 7-8, though not discussed or labeled, a centrally located adjusting element on a base, which is generally well-known in the art, can be seen in figure 3.

III. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 14-16 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over KLEIN.

1.1. With respect to claim 14-16, KLEIN discloses but does not detail a safety gear (32).

Both KLEIN and applicant (spec. pg. 5) admit such an arrangement is well-known.

Pedal operated switches are also well-known in the art. It would have been obvious to one of ordinary skill in the art to employ a pedal-operated safety gear in order to ensure worker safety.

IV. Response to Applicant's Arguments

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Applicant's arguments entered 5/24/07 & 7/24/07 have been fully considered.

1. Applicant argues that claim 1, as amended, distinguishes over KLEIN because the suspension elements are "for temporary support during installation." This argument is not persuasive. Firstly, the limitation is met directly because, since installation is a temporary procedure providing support throughout the process constitutes temporary support during installation. I.e., once the installation has terminated, the support during installation has terminated, thereby making the support during installation temporary. Additionally, this limitation relates merely to the intended usage of the apparatus and does not result in a structural difference between the apparatus and the prior art. In a claim directed to an apparatus a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. The examiner recognizes the intended method of using the apparatus differs from the prior art, but since this claim is directed to an apparatus not a process, there must exist some structural difference over the prior art in order to patentably distinguish Applicant's claims.
2. Applicant argues that claim 1 is not anticipated by KLEIN because KLEIN fails to disclose an elevator car. This argument is not persuasive. The platforms of KLEIN are an elevator car within the broadest reasonable interpretation of that term.
3. Applicant argues that claim 1 is not anticipated by KLEIN because KLEIN fails to disclose a "kit." This argument is not persuasive. This argument is premised on the notion that since components relied upon in KLEIN are intended for permanent installation they cannot properly be characterized as a kit. Firstly, the fact that some components are for permanent

installation does not preclude these components from being considered part of a kit. Secondly, the temporary nature of the installation described by Applicant amounts to an intended use limitation that does not patentably distinguish the apparatus from the prior art as discussed above.

4. Applicant argues that claim 2 is not anticipated by KLEIN because KLEIN fails to disclose a manually operated mounting too. This argument is not persuasive. Firstly, angle member (16) is a tool within the broadest reasonable interpretation of that term because it aids in accomplishing a task. Secondly the task that member (16) accomplishes is providing support so the "operation" occurs at installation which is effectuated "manually" i.e., by an installer. Member (16) therefor constitutes a "manually operated tool" within the broadest reasonable interpretation of that term.

V. Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
2. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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3. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached at (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG



SAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER